

FROM W&C LLP 19TH FL

(THU) 7. 24' 03 21:53/ST. 21:53. NO. 4260454164 P 1

1104628-0016


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Koziel et al.  
Serial No. : 09/988,462  
Filed : November 20, 2001  
For : SYNTHETIC DNA SEQ JENCE  
HAVING ENHANCED INSERIONAL  
ACTIVITY IN MAIZE  
Examiner : McElwain, Elizabeth  
Group Art Unit : 1638

**FAX RECEIVED**

JUL 31 2003

**GROUP 1600**

<b>CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. §1.3</b>	
I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below at the facsimile number 703-308-4242.	
John Scheibeler	35,346
Attorney Name	PTO Reg. No.
	7/25/03
Signature	Date of Signature

**Group 1638**  
Assistant Commissioner for Patents  
Box 1450  
Alexandria, VA 223 3-1450

**ATTENTION:** Examiner Elizabeth McElwain  
**FACSIMILE NO:** 703-308-4242  
**DATE:** July 25, 2003  
**PAGES:** 3

**RESPONSE TO RESTRICTION REQUIREMENT**

Sir:

This communication is Applicants' response to the restriction requirement issued in the referenced application by an Office Action, mailed March 25, 2003. Apart from the restriction requirement, there has been no substantive examination of the claims.

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Received from <2128197583> at 7/25/03 10:46 -2 AM [Eastern Daylight Time]

Applicants concurrently petition for a three-month extension of time. The Assistant Commissioner is authorized to charge Deposit Account No. 23-1703 in the amount of Nine Hundred and Thirty Dollars (\$930.00) to cover the required fee under 37 C.F.R. § 1.17(a)(3).

### REMARKS

The referenced application is a U.S. utility application filed April 12, 2001. A restriction requirement under 35 U.S.C. §121 was issued in the subject application. It is alleged that the subject application contains the following inventions or groups of inventions which are independent and patentably distinct:

Group I: Claims 95-104, drawn to transgenic maize seed and plants comprising a chimeric gene encoding a maize optimized Bt insecticidal protein, and method of controlling insect pests with said plant;

Group II: Claims 105-117, drawn to a transgenic plant seed comprising a chimeric gene encoding a Bt insecticidal protein optimized for expression in a plant by reverse translating an amino acid sequence, plants transformed with said DNA, and methods of using said plants to control pests; and

Group III: Claims 118-130, drawn to a synthetic DNA coding for a Bt insecticidal protein that uses specified codons, plants transformed with said DNA, and methods of using said plants to control pests.

Applicants elect the invention of Group I for examination purposes without traverse. Applicants reserve the right to file one or more divisional applications directed to the inventions of non-elected Group II and III.


FROM W&C-LLP 19TH FL.

(THU) 7. 24' 03 21:54/ST. 21:53/NO. 4260454 64 P 3

It is submitted that Applicants have completely responded to the restriction requirement.  
Examination and early allowance of the elected claims is respectfully requested.

Dated: 7/25/03

Respectfully submitted,



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